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HOUSE BILL NO. 2463

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations)

(Patron Prior to Substitute—Delegate O'Bannon)

House Amendments in [] — February 9, 2009

A BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 47, consisting of sections numbered 30-309 through 30-317, relating to the Government Efficiency Review Commission.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 47, consisting of sections numbered 30-309 through 30-317, as follows:

CHAPTER 47.

GOVERNMENT EFFICIENCY REVIEW COMMISSION.

§ 30-309. Short title.

This chapter shall be known and may be cited as the "Government Efficiency Review Act."

§ 30-310. Definitions.

As used in this chapter:

"Agency" means any agency, authority, board, department, division, commission, institution, bureau, or like governmental entity of the Commonwealth and includes any entity, public or private, with which any of the foregoing has entered into a contractual relationship to accomplish an agency program.

"Commission" means the Government Efficiency Review Commission.

"Functional area" means that grouping of state governmental activities, programs, and agencies that constitute a single budget function as identified and classified in the Virginia State Government Program Structure.

§ 30-311. Government Efficiency Review Commission established; membership; terms; quorum; compensation.

A. The Government Efficiency Review Commission (the Commission) is established as an advisory commission in the legislative branch. The purpose of the Commission shall be to review agencies on an eight-year cycle and advise the General Assembly on the elimination of waste, duplication, and inefficiency on the part of such agencies.

B. The Commission shall consist of 14 members, including 10 legislative members, as follows: (i) [~~five~~ six] members of the House of Delegates to be appointed by the Speaker of the House of Delegates, (ii) [~~five~~ four] members of the Senate to be appointed by the Senate Committee on Rules, (iii) the Lieutenant Governor, and (iv) three citizen members appointed by the Governor.

C. Legislative members and the Lieutenant Governor shall serve terms coincident with their terms of office. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms.

D. The Lieutenant Governor shall serve as the chair of the Commission.

E. Eight members of the Commission shall constitute a quorum. A final action or recommendation may not be made unless approved by a record vote of a majority of legislative members present and voting.

F. Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative members shall receive such compensation as provided in § 2.2-2813.

§ 30-312. Powers and duties of the Commission.

The Commission shall:

1. By January 1, 2010, establish a schedule of functional areas of state government for review and evaluation pursuant to this chapter on an eight-year cycle;

2. Review and take action necessary to verify reports submitted pursuant to § 30-313;

3. Consult with the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the Department of Planning and Budget on the application to the agency of the criteria prescribed in § 30-314;

4. Conduct a review of the agency-based criteria prescribed in § 30-314; and

5. Submit annually by December 1 to the Governor and General Assembly a report on agencies reviewed containing the Commission's findings regarding the criteria prescribed by § 30-314 and any other information the Commission considers necessary for a complete review of the agency.

§ 30-313. Submission of agency report to Commission.

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HB2463EH2

59 Pursuant to the schedule established by the Commission, every agency subject to the provisions of
60 this chapter shall submit to the Commission a report on the application of the criteria in § 30-314 to
61 such agency by September 1 of the year preceding the year in which the agency is scheduled for review.

62 § 30-314. Criteria for agency reviews.

63 The Commission shall consider the following criteria in determining its findings and
64 recommendations:

65 1. The efficiency and effectiveness of the agency's operation;

66 2. Identification of (i) the mission, goals, and objectives intended for the agency; (ii) the problem or
67 need that the agency was intended to address; and (iii) the extent to which the mission, goals, and
68 objectives have been achieved and the problem or need has been addressed;

69 3. Identification of any activities of that agency that are in addition to those granted by statute and
70 of the authority for such activities;

71 4. Assessment of the agency's authority relating to fees, inspections, enforcement, and penalties;

72 5. Whether less restrictive or alternative methods of performing any function that the agency
73 performs could adequately protect or provide services to the public;

74 6. The extent to which (i) the jurisdiction of the agency and the programs administered by the
75 agency overlap or duplicate those of other agencies, (ii) the agency coordinates with those other
76 agencies, and (iii) the programs administered by the agency can be consolidated with the programs of
77 other agencies;

78 7. The promptness and effectiveness that the agency addresses complaints concerning entities or
79 individuals affected by the agency, including an assessment of the agency's administrative hearing
80 procedures;

81 8. An assessment of the agency's rulemaking process and the extent to which the agency encourages
82 public participation in the process. Such assessment shall also include the extent to which public
83 participation has resulted in rules that benefit the public;

84 9. Whether the agency has complied with (i) federal and state laws and applicable regarding
85 equality of employment opportunity and the rights and privacy of individuals and (ii) the state law and
86 applicable rules of any state agency regarding purchasing guidelines and programs for historically
87 underutilized businesses;

88 10. Whether the agency issues and enforces rules relating to potential conflicts of interest of its
89 employees;

90 11. The extent to which the agency complies with the Freedom of Information Act (§ 2.2-3700 et seq.)
91 and follows records management practices that enable the agency to respond efficiently to requests from
92 public records; and

93 12. The effect of federal intervention or loss of federal funds if the agency is abolished.

94 § 30-315. Public hearings.

95 Before February 1 of the year in which an agency subject to this chapter is scheduled for review, the
96 Commission shall conduct public hearings concerning but not limited to the application to the agency of
97 the criteria provided by § 30-314. The Commission may hold the public hearings after the review of the
98 agency is complete and available to the public.

99 § 30-316. Commission recommendations; fiscal impact; legislation; monitoring.

100 A. The Commission report shall contain recommendations on (i) the abolition, continuation, or
101 reorganization of each affected agency; (ii) the need for the performance of the functions of the agency;
102 (iii) the consolidation, transfer, or reorganization of programs within other agencies that are not under
103 review when the programs duplicate functions performed in agencies under review; and (iv)
104 improvements that may be made to operations of the agency, including management recommendations
105 that do not require an amendment to the agency's enabling statute.

106 B. The Commission shall include the estimated fiscal impact of its recommendations and may
107 recommend appropriation levels for certain programs to improve the operations of the agency.

108 C. The Commission shall recommend legislation to implement its recommendations.

109 § 30-317. Operation and construction of chapter; subcommittees.

110 A. The operation of this chapter shall not restrict the power of the General Assembly to study or act
111 on any matter at any time.

112 B. The operation of this chapter shall not imply or require the termination of any state agency or
113 program.

114 C. Nothing in this chapter shall be construed to restrict the Joint Legislative Audit and Review
115 Commission or the standing committees from holding hearings on any subject as may be required nor
116 shall operation of this chapter limit the Commission or committees from such other activities as may be
117 authorized by law or custom.